

Notice of Allowability

Application No.

10/808,919

Examiner

Peter J. Vrettakos

Applicant(s)

PAUL ET AL.

Art Unit

3739

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to TD dated 8-27-07.
2. ☒ The allowed claim(s) is/are 65-82.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date 8-24-07.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

DETAILED ACTION

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Drew Zager on 8-24-07.

The application has been amended as follows:

1) Claim 65. A catheter, the catheter comprising

an outer sheath having a distal end;

an inner sheath having a distal end;

an annular channel defined between said outer sheath and said inner sheath, wherein said annular channel is adapted to carry fluid;

a mechanical interface supported at least in part by said distal end of said inner sheath;

a flexible electrode adapted to apply ablative energy to target tissue, wherein said flexible electrode is supported by said mechanical interface, wherein said flexible electrode comprises an embedded portion and an exposed portion, and wherein said exposed portion extends from said distal end of said outer sheath and comprises a working surface;

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a primary conductor adapted to carry ablative energy from an energy source to said flexible electrode, wherein said primary conductor comprises an uninsulated portion in electrical contact with said flexible electrode; and

a flexible boot at said distal end of said outer sheath, said flexible boot defining an annular fluid jacket around a booted portion of said flexible electrode, wherein said booted portion comprises at least a portion of said exposed portion of said flexible electrode, and wherein said annular fluid jacket is adapted to carry fluid that is in fluid communication with said annular channel, and said booted portion directly contacting the flexible electrode to direct the fluid to the flexible electrode.

2) Claims 1-64 and 83-84 are cancelled.

The following is an examiner's statement of reasons for allowance:

An interview summary was held with Examiner Vrettakos, Floyd Chapman and Drew Zager on 8-24-07. During that discussion the following was determined. Goble (6,780,180), *representing the closest prior art to the Applicant's claimed invention*, neglects to teach or disclose an electrode catheter having a flexible boot as claimed with a **ring (144) of direct contact** as seen in Applicant's figure 26, element 144. At element 144, the flexible boot (142) is in direct contact with the Applicant's electrode (120). Goble discloses shafts surrounding electrode elements, but does not disclose a boot in direct contact with the electrode. The direct contact ring permits the creation of a contained annular fluid jacket. As Goble shows no direct contact between a shaft/boot

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and the electrodes, a contained annular fluid jacket as claimed by the Applicant cannot be created.

The instant application's independent claim (65) includes language toward the patentable difference highlighted above and the prior art. To these ends, the application is in condition for allowance.

Terminal disclaimers are filed 8-27-07 to avoid double patenting with 10/856,925 and 10/856,926.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter J. Vrettakos whose telephone number is 571-272-4775. The examiner can normally be reached on M-F 9-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C. Dvorak can be reached on 571-272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

PV
Pete Vrettakos
August 27, 2007

/Michael Peffley/
Primary Examiner
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